

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00213-MR-WCM**

MYRON WAYNE BODTKER,)
)
Plaintiff,)
)
vs.) **O R D E R**
)
WAL-MART INCORPORATED,)
)
Defendant.)
)

THIS MATTER is before the Court *sua sponte*.

Under the Pretrial Order and Case Management Plan, the deadline to file dispositive motions in this case was April 3, 2024. [See Doc. 46]. However, nearly a month after that deadline passed, on April 29, 2024, Plaintiff filed a Motion for Summary Judgment [Doc. 95] and “Plaintiff’s Response To Defendant’s Reply In Further Support of Its Motion for Summary Judgment” [Doc. 96]. In filing his motion, Plaintiff did not provide any justification for this lengthy delay. Indeed, he entirely failed to acknowledge that his motion was untimely. Accordingly, it will be stricken.

Additionally, as the Magistrate Judge explained to Plaintiff in his Order striking one of Plaintiff’s previous filings, [see Doc. 34], Local Rule 7.1(e) plainly provides that “[s]urreplies are neither anticipated nor allowed by this

Rule, but leave of Court may be sought to file a surreply when warranted.” “Plaintiff’s Response To Defendant’s Reply In Further Support of Its Motion for Summary Judgment” is clearly a surreply, and Plaintiff did not seek leave of Court before filing. Nor has he demonstrated that filing a surreply is warranted in this instance. Therefore, in its discretion, the Court will strike “Plaintiff’s Response To Defendant’s Reply In Further Support of Its Motion for Summary Judgment.”

ORDER

IT IS, THEREFORE, ORDERED that Plaintiff’s Motion for Summary Judgment [Doc. 95] and “Plaintiff’s Response To Defendant’s Reply In Further Support of Its Motion for Summary Judgment” [Doc. 96] are hereby **STRICKEN**.

IT IS SO ORDERED.

Signed: May 1, 2024



Martin Reidinger
Chief United States District Judge

